

David B. Chenkin  
Kenneth C. Rudd  
BJ Finneran  
ZEICHNER ELLMAN & KRAUSE LLP  
1211 Avenue of the Americas  
New York, New York 10036  
(212) 223-0400  
(212) 753-0396 (fax)

Attorneys for Defendant Bank of America, N.A.,  
as successor by merger to Countrywide Bank, N.A.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NANCE M. HUTTER,

Plaintiff,

- against -

COUNTRYWIDE BANK, N.A., a subsidiary of  
COUNTRYWIDE FINANCIAL  
CORPORATION, WATERMARK CAPITAL,  
INC. and EVOLUTION MORTGAGE, INC.,

Defendants.

Case No. 09 CV 10092 (NSR)(LMS)

**STIPULATION AND  
ORDER**

WHEREAS, by motion dated November 25, 2013 (the "Motion"),  
plaintiff moved with Court permission to file a Fourth Amended Complaint and to join  
parties [D.E. 127];

WHEREAS, on or about January 7, 2014, defendant Bank of America,  
N.A., successor by merger to Defendant Countrywide Bank, N.A. ("BANA"), served  
opposition to the Motion and a cross motion for an Order granting sanctions against  
plaintiff under 28 U.S.C. 1927 for vexatiously multiplying the pleadings and  
proceedings (the "Cross Motion");

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/10/2014

WHEREAS, the Motion and the Cross Motion were fully briefed and filed with the Court on February 11, 2014 [DE 115, et seq.];

WHEREAS, on March 3, 2014, BANA served a motion for an order granting BANA sanctions under Fed. R. Civ. P. 11(b)(2)-(3) against plaintiff and her counsel (The "Rule 11 Motion");

WHEREAS, the Rule 11 Motion was fully briefed and filed with the Court on June 30, 2014 [DE 150, et seq.];

WHEREAS, on August 22, 2014 the Court issued a memorandum decision and order (the "Order") denying the Motion and the Cross Motion but granting the Rule 11 Motion for sanctions against plaintiff and plaintiff's counsel, Stephen Katz ("Katz"). Plaintiff was ordered to pay \$100 to the Court and Katz was ordered to pay BANA's reasonable attorney's fees incurred in opposing the Motion [DE 158, et seq.]; and

WHEREAS, the Order also scheduled a hearing on October 7, 2014 on the amount of reasonable attorney fees counsel should pay to BANA if the parties could not agree on an amount;

IT IS HEREBY STIPULATED AND AGREED by and between counsel for plaintiff and BANA, that:

1. Katz agrees to pay to BANA, and BANA has agreed to accept in full satisfaction of his obligations under the Order, a total of \$25,000.00 for BANA's reasonable attorney fees incurred in opposing the Motion (the Settlement Amount").

2. The parties agree that Katz will pay the Settlement Amount in twelve monthly payments of \$2,000 each and one final payment of \$1,000.

3. Katz will draw each payment by check to the order of "Bank of America, N.A.".

4. The first payment must be received by BANA's counsel on or before October 15, 2014 and each subsequent payment must be sent so as to be received by BANA's counsel on or before the 15<sup>th</sup> day of each successive month until the Settlement Amount is paid in full.

5. By entering into this stipulation plaintiff's counsel does not waive any right to appeal the Order.

6. The hearing scheduled for October 7, 2014 to determine the amount of reasonable attorney's fees incurred by BANA to oppose the Motion is cancelled.

7. Upon so-ordering by the Court, this Stipulation shall become a binding Order of the Court. The Court shall retain jurisdiction to enforce this Order regardless of whether the captioned action is disposed of.

8. This Stipulation may be signed in counterparts and submitted to the Court without further notice, and that electronic/facsimile copies and/or photocopies shall be considered originals for all purposes.

Dated: New York, New York  
October 9, 2014

STEPHEN A. KATZ, P.C.

By: 

Stephen A. Katz, Esq.  
Attorney for Plaintiff  
111 John Street, Suite 800  
New York, New York 10038-3180  
(212) 349-6400

ZEICHNER ELLMAN & KRAUSE LLP

By: 

David B. Chenkin, Esq.  
Kenneth C. Rudd, Esq.  
BJ Finneran, Esq.  
Attorneys for Defendant  
Bank of America, N.A., as successor  
to Countrywide Bank, N.A.  
1211 Avenue of the Americas  
New York, New York 10036  
(212) 223-0400

Dated: Oct. 10, 2014  
White Plains, NY

SO ORDERED

  
\_\_\_\_\_  
U.S.D.J.  
Nelson S. Roman